

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.1722OF 1986

For Approval and Signature

The Hon'ble Mr. Justice S.K. KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

JASWARBHAI BABUBHAI VASAVA & ANR
VERSUS
STATE OF GUJARAT & ORS.

Appearance:

MR SH SANJANWALA for Petitioners
MR HL JANI for Respondents No.1 & 2

Coram: S.K. Keshote,J
Date of decision: 9/12/1997

C.A.V. JUDGMENT

Having heard the learned counsel for the parties,
I do not find any case in favour of the petitioner which calls for interference of this Court in the orders passed by the authorities below. In case the contention of the

petitioner that the provisions of Section 73-AA of the Bombay Land Revenue Code are not applicable to the lease, is accepted, then the whole purpose of enacting this provision will be frustrated and further this provision will be made nugatory by the persons of means. This provision has been enacted for the benefit of tribals and in case the lease are obtained for a long term, then the tribals may be deprived of their land and the persons of means will get the benefit of these lands. The land in dispute was admittedly taken by the petitioner on lease for a period of 30 years and if the contention aforesaid of the petitioner is accepted, the respondent No.3 will be deprived of the land for 30 years which cannot be said to be a small period. There is yet another aspect to be noticed. After 30 years if the petitioner refuses to deliver the possession of the land to respondent No.3, he will have to enter into litigation and that may have its own life also. So it is a case where the persons of means like the petitioner, may defraud the persons of Schedule Tribe, which cannot be permitted by this Court. Admittedly the previous sanction of the competent authority has not been obtained for transfer of the land on lease and as such the authorities have not committed any error in holding it to be a case of transfer of land in contravention of the provisions of Section 73-AA of the Bombay Land Revenue Code. The only consequential order therefore would have been for forfeiture of the land in dispute in favour of the Government.

3. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

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(sunil)